IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 1133 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE A.M.KAPADIA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AMRUTLAL KESHAVLAL THAKKAR - Applicant(s)

Versus

AMBAJI GRAM PANCHAYAT & 1 - Opponent(s)

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Appearance :

UNSERVED-EXPIRED (N) for Petitioner No(s).: 1.

RULE NOT RECD BACK for Respondent No(s).: 1,2.

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CORAM : HON'BLE MR.JUSTICE A.M.KAPADIA

Date : 25/07/2005

ORAL JUDGMENT

1. By filing this petition under Section 115 of the Code of Civil Procedure ('the Code' for short), the petitioner seeks to challenge

the order dated 30.4.1998 rendered in Civil Misc. Application No.48 of 1997 by the learned Joint District Judge, Banaskantha at Palanpur by which the application filed by the petitioner under Order 41 Rule 19 of the Code for restoration of Civil Misc. Application No. 48 of 1997 came to be dismissed.

2. This Court vide order dated 14.8.1998 issued notice to the respondents for final disposal of the petition and also directed the respondents to maintain status quo as on that day.

3. Thereafter the petition was admitted.

4. It appears from the record that the said notice for final disposal issued by this Court could not be served upon the respondents till today. Meanwhile, the learned advocate of the petitioner who has filed appearance on his behalf has been elevated as a Judge to the Bench of this Court. Registry, therefore, issued notice to the petitioner informing him to file his appearance either personally or through advocate. Said notice was issued on 20.2.2004 but it was returned with an endorsement that the petitioner has died.

5. At the time of service of the said notice it was informed to the Bailiff by the son of the petitioner that the petitioner has died prior to two years. Thereafter the petition was admitted. Though pendency of this petition was known to the son of the deceased petitioner, they have not taken any step to implead them as party in the present proceedings and therefore it appears that the heirs and legal representatives of the deceased petitioner are not interested in prosecuting the matter. Therefore, this Court is left with no other option but to dismiss the petition for want of

prosecution.

6. For the foregoing reasons, the petition is rejected for want of prosecution. Rule is discharged with no order as to costs. Interim relief granted earlier shall stand vacated.

(A.M. Kapadia, J.)

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